FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
NAGPUR BENCH, NAGPUR

Second Appeal No. 424/2006

Appeal	District :
Application No.	of 200
Writ petition	

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

CORAM : Smt. V. A. Naik, J.
DATED : March 16, 2007.

Heard Shri Dongre for the appellant.

The appellant is the original defendant. A suit was filed by the plaintiffs against the defendant for recovery of possession of 5 R of land which, according to the plaintiffs, was encroached upon by the defendant. According to the plaintiffs, the defendant had dug a well in the portion of the field of the plaintiffs. The defendant denied the claim of the plaintiffs and further denied that he had committed any encroachment upon 5 R of land belonging to the plaintiffs.

The Court Commissioner was appointed and he submitted his report in the Court. The Court Commissioner was also examined in the matter. The Commissioner's report clearly shows that the defendant had encroached upon 5 R of land belonging to the plaintiffs. The trial and the appellate Courts scrutinized the evidence tendered

by the witnesses and specially the evidence of the Court Commissioner very cautiously to record a finding that the defendant had encroached upon 5 R of land. The Courts further came to a conclusion that the plaintiffs have proved their ownership over the area of 5 R of land and were entitled to recover the possession of the encroached portion of land from the defendant. The Courts then concurrently recorded that the defendant had dug a well in the portion of the land belonging to the plaintiffs.

The findings recorded by both the Courts are pure findings of facts which do not give rise to any substantial question of law. Second appeal is, therefore, dismissed with no order as to costs.

JUDGE

RMP